IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 14254 of 2007
Date of decision: 20.9.2007

Bhikham Chand and others ...Petitioners

Versus

The Deputy Commissioner, Gurdaspur and others ...Respondents.

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL
HON'BLE MR. JUSTICE R.S. MADAN

Present: Mr. Surinder Avinash Sharma, Advocate,
for the petitioners.

K.S.GAREWAL, J.

Bhikham Chand and others were proceeded against by Gram Panchayat of Chuharpur, Block Dinanagar, Tehsil and District Gurdaspur before the Collector, Gurdaspur. The panchayat had sought eviction of Bhikhem Chand and others pleading that they were in unauthorized and illegal possession of 40 kanals 6 marlas land in the village and had sought their eviction under Sections 4 and 5 of the Punjab Public Premises and Land (Rent Recovery and Eviction) Act, 1973.

The Collector heard the parties and came to the conclusion that the suit land belonged to the panchayat who had control and management

thereof. The income derived from the land was also spent on the development of the village.

The defence of the petitioners was that the land was mustarkan malkan and did not fall in panchayat's jurisdiction. They pleaded that the land belong to the proprietors of the village and they were in possession of the land as share holders.

The Collector accepted the panchayat's application and ordered the eviction of the petitioners on February 28, 2006. The appeal filed by the petitioners before the Deputy Commissioner exercising the powers of the Commissioner was dismissed on August 23, 2006.

Today when the case was taken up, two sale deeds dated June 10, 1974 and June 24, 2003 were placed on record but these documents do not advance the petitioners' case.

The learned counsel has argued that in the various jamabandies starting from 1958-1959 upto 1977-1978 the land has been entered as jumla malkan wa digar haqdaran hasab rasad rakba in the ownership column and the name of the cultivator is of the petitioners as tenants at will in the jamabandies for the period 1977-1978 to 1996-1997.

In order to succeed, the petitioners must show (a) proof that they are proprietors of the village; (b) the extent of their holdings in the village; (c) the extent of their share in the joint holdings of the proprietors (Jumla Mustakan Malkan) and (e) proof that the suit land is within their share and not in excess of it.

The petitioners had the remedy to establish their title before the Collector under Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961 but they did not avail this remedy. Rather they set

up their claim in the proceedings under the Punjab Public Premises and Land (Rent Recovery and Eviction) Act, 1973. These proceedings are summary in nature and the authorities are not required to examine questions of title.

For the above reasons, we feel that the petitioners have miserably failed to even remotely establish that they were in lawful and legal possession of the land in question as owners and proprietors.

Consequently, this petition is dismissed in limine.

(K.S. GAREWAL)
JUDGE

20.9.2007
prem

(R.S. MADAN)
JUDGE